

Remarks

Applicant has carefully reviewed the Application in light of the Final Office Action mailed October 11, 2007. Although Applicant believes that all pending claims are allowable without amendment, Applicant has made clarifying amendments to Claims 1, 5-7, 9, 13-17, 28, and 32-36. None of these amendments is considered narrowing or necessary for patentability. Additionally, Applicant respectfully submits that these amendments place the application in better condition for allowance or simplify issues for appeal, and therefore respectfully request that the Examiner enter the amendments. Applicant respectfully requests reconsideration and allowance of all pending claims.

I. The Claim Objections should be Withdrawn

The Examiner objects to the use of the word “it” in Claims 1, 5, 9, 13, 17, 28, 32, and 36. (Final Office Action at 3) Although Applicant does not necessarily agree that the use of the word “it” in a claim is improper, Applicant has made a clarifying amendment to Claims 1, 5, 9, 13, 17, 28, 32, and 36 to remove the use of the word “it,” as requested by the Examiner. Applicant respectfully requests that the Examiner withdraw the objection to Claims 1, 5, 9, 13, 17, 28, 32, and 36.

The Examiner objects to the use of the phrase “can be” in Claims 6-7, 14-16, and 33-35. (Final Office Action at 3) Although Applicant does not necessarily agree that the use of the phrase “can be” is improper for at least those reasons discussed in Applicant’s previous Response, Applicant has amended Claims 6-7, 14-16, and 33-35 to remove the use of the phrase “can be.” Applicant respectfully requests that the Examiner withdraw the objection to Claims 6-7, 14-16, and 33-35.

II. The Claims Recite Patentable Subject Matter

The Examiner rejects Claims 1, 4-9, 12-17, 20-22, 24-28, and 31-36 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully disagrees.

With respect to independent Claims 1, 9, 17, 28, and 36, the Examiner stated the following in the previous Office Action:

Claims 1, 9, 17, 28 and 36 recite “if it is determined that the filter item comprises a NOT connective and a type only filter item, apply a logical methodology to evaluate the NOT connective, the logical methodology comprising expanding an expression of the filter item so that the filter item does not comprise the NOT connective” could be reasonably considered a tangible and useful result when the dirty data items are selected, it appears to have no claimed result in the condition when the filter items does not comprise a NOT connective; and when the filter item does not comprise one of a type only filter item or a type and value filter item to form the basis [for] statutory subject matter under 35 U.S.C. 101.

(previous Office Action at 4) Applicants respectfully traverse this rejection.

According to the M.P.E.P., “[t]he claimed invention as a whole must be useful and accomplish a practical application. That is, it must produce a “useful, concrete and tangible result.” M.P.E.P. § 2106(II)(a) citing *State Street*, 149 F.3d at *1373-74, 47 USPQ2d at 1601-02. “The purpose of this requirement is to limit patent protection to inventions that possess a certain level of ‘real world’ value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research. M.P.E.P. § 2106(II)(A)

Applicant maintains that that the Examiner essentially is requiring the claim to recite each possible outcome of the determinations made in Claim 1 (for example) for the claim to be statutory. The Examiner now cites U.S.P.T.O.’s Interim Guidelines for Subject Matter Eligibility as purportedly supporting the Examiner’s position. (Final Office Action at 2) After reviewing the Interim Guidelines, Applicant’s attorney finds no requirement that each possible outcome of a determination be recited in a claim for the claim to be statutory. For example, even assuming that the useful, concrete, and tangible result is the appropriate test for these claims, Applicant’s attorney does not find in the Interim Guidelines any *per se* rule requiring Applicant to state each outcome of a conditional test in a claim for the claim to recite a useful, concrete, and tangible result, and to be statutory. In any event, all that the law requires is that a claim recite *a* useful, concrete, and tangible result to be statutory. The rejected independent claims do so. Therefore, it appears to Applicant that the claims are directed to patentable subject matter.

For at least these reasons, Applicant respectfully submits that independent Claims 1, 9, 17, 28, and 36 and their dependent claims recite patentable subject matter and requests reconsideration and allowance of these claims.

III. No Waiver

All of Applicant's arguments and amendments are without prejudice or disclaimer. By not responding to additional statements made by the Examiner, Applicant does not acquiesce to the Examiner's additional statements.

Conclusion


Applicant has made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Chad D. Terrell, Attorney for Applicant, at the Examiner's convenience at (214) 953-6813.

Although no fees are believed to be due, the Commissioner is hereby authorized to charge any necessary fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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